DOCKET FILE COPY ORIGINAL

RECEIVED

FEB - 7 2003

Federal Communications Commission
Office of Secretary

Before the
Federal Communications Commission
Washington, D.C. **20554**

In the Matter of	)	
Revisions of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems	)	CC Docket No. 94-102

REPLY COMMENTS **OF** MERCEDES-BENZ **USA, LLC**

Mercedes-Benz USA, LLC ("MBUSA"), on behalf of its parent company, DaimlerChrysler **AG,** hereby submits these reply comments in response to the Wireless Telecommunications Bureau's Public Notice, **DA** 02-3565 (rel. Dec. 20, 2002) seeking comment on the Petition for Declaratory Ruling filed by OnStar Corporation ("OnStar Petition") on December 3, 2002 in the above-captioned proceeding. Below, MBUSA explains its telematics service offering and requests that, at a minimum, the Commission make no determination that telematics units limited to call center communications be considered "handsets" for purposes of its E-911 rules. Moreover, the Commission should not require that such dedicated devices comply with the E-911 Phase II rules, as suggested by one commenter.

014

I. Background

MBUSA is an automobile importer and distributor dedicated to providing maximum safety for its customers. Toward this goal, MBUSA has partnered with ATX Technologies, Inc. ("ATX") to offer a telematics service known as Tele Aid. 1/ The cornerstone of the Tele Aid service offering is an automated crash notification ("ACN") system that uses crash sensors to initiate a call for help in the case of an accident. Tele Aid relies on a vehicle-mounted GPS satellite receiver to determine the vehicle's location, which is automatically transmitted to an ATX-operated emergency call center using a CMRS carrier's network in the event of a collision. At the same time, a voice connection is established to the call center via the dedicated Tele Aid speakerphone, allowing the vehicle's occupants to communicate with emergency call center dispatchers to ensure that the appropriate emergency personnel are notified. Vehicle occupants may also reach the call center by manually pressing an emergency "hot button" on the Tele Aid console, for use in non-crash situations.

The Tele Aid unit can *only* be used to place calls to the ATX emergency call center or to another MBUSA-affiliated call center. 2/ It cannot be used in place

---

1/ MBUSA currently has an installed base of over 600,000 Tele Aid units, and expects to install roughly 200,000 units per year over the next several years. Like OnStar, MBUSA is in the process of obtaining and testing digital-capable Tele Aid units *to* be phased-in on future model-year vehicles.

2/ Through the use of two other dedicated buttons on the Tele Aid console,

of a "normal" wireless phone to connect the Tele **Aid** subscriber to other telephone numbers. Moreover, it cannot be used to dial 911, as such calls are unnecessary given that all emergency calls are automatically routed to the ATX call center.

II. Tele **Aid Units** Are **Not** Handsets

In its Petition, OnStar requests the Commission to clarify that embedded telematics devices are not "handsets" for purposes of the Commission's E-911 rules. As an initial matter, it is clear that telematics service providers are not themselves subject to the Commission's E-911 rules. The obligation to provide E 911 applies only to spectrum licensees. 3/ Rather, the OnStar Petition focuses on the whether telematics devices are considered handsets for purposes of Section 20.18(g) of the Commission's rules, which establishes various benchmarks for the phase-in of location-capable handsets by wireless carriers employing a handset-based solution for E-911.

As the record indicates, there are various types of telematics services, some of which are packaged with voice CMRS service, while others, like Tele Aid,

---

vehicle occupants can use the unit to obtain roadside assistance (including remote diagnostics), or to speak with the MBUSA Customer Assistance Center that can answer specific questions about the car.

3/ ***See*** 47 C.F.R. § 20.18 (b)-(i). See *also,* Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Further* ***Notice*** *of Proposed Rulemaking,* FCC 02-326 (rel. Dec. 20, 2002) ("Further Notice") at ¶ 77 ("Currently, the Commission's rules require *licensees* to

are not. MBUSA submits that, at a minimum, telematics devices used exclusively for call-center hased services are not "handsets." Significantly, no commentcr – even those opposing the OnStar Petition – disputed this position. Intrado, Inc., for example, suggested that the OnStar units could be excluded from coverage under the E-911 rules if OnStar only offered call center-based services. 4/ The public safety commenters (APCO, NENA and NASNA) drew a similar distinction, taking the position that only where subscribers have the *option* of dialing 911 directly should location information he required to be automatically reported to the PSAP. 5/

Where subscribers do not have the option of dialing 911 directly, it would be unquestionably illogical to treat telematics units as "handsets" for purposes of section 20.18(g). Notably, the rules require that, by a certain date (which varies by carrier based on various waivers currently in effect), 100% of all new digital handsets that are activated be location-capable. 6/ If telematics units were treated as handsets, no carrier employing a handset-based E-911 Phase II

---

comply with its E911 requirements.").

4/ Comments of Intrado Inc. at *4.*

5/ Comments of APCO, NENA and NASNA at 3.

6/ 47 C.F.R.§ 20.18(g)(1)(iv). "Location capable handset" is defined as a phone that "contains special location-determining hardware and/or software, which is used by a licensee to locate 911 calls." 47 C.F.R. § 20.3. Although the Tele Aid units contain location-determining hardware and software, they cannot be used to place calls to 911, and therefore do not satisfy the definition.

solution would be permitted to activate a non-location-capable telematics device after this date. This would critically impact the deployment of new digital telematics devices, including those that are not capable of dialing 911 in the first place. As the ComCARE Alliance properly recognizes, any rule that acts to delay the deployment of digital telematics devices would constitute a safety threat, given that carriers are in the process of phasing-out their analog channels, which results in increasingly smaller amounts of analog spectrum being available for safety critical telematics services. 7/

MBUSA douhts that the Commission, in drafting section 20.18(g), intended *any* embedded telematics units to be treated as a handset. As others have indicated, there is no evidence in the record that the Commission considered the issue of telematics units at all. 8/ More importantly, as Verizon and CTIA have stated, the Commission specifically formulated the benchmarks in section 20.18(g) based on assumptions of relatively rapid "normal" handset turnover and growth, and on "reasonable efforts" by carriers to encourage handset trade-ins or retrofits 9/ Telematics units, however, are securely embedded and integrated into a vehicle's

---

7/ ***See*** Comments of the ComCARE Alliance at 5 ("itis imperative to minimize the number of vehicles that will have analog units and potentially be unable in the future to provide the basic location-based safety and security services . . . ").

8/ ***See,*** *e.g.,* Comments of the ComCARE Alliance at 3.

9/ *See* Comments of Vcrizon Wireless at 2-3 and Comments of CTIA at 3; Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems, *Third Report and Order,* 14 FCC Rcd 17,388,17,411-

infrastructure such that retrofitting is not practical, and the "turnover"rate is generally expected to he equivalent to the life of the car. Thus, treating any embedded telematics unit as a "handset"would not be consistent with the rationale underlying section 20.18(g)

Moreover, although the Commission has never defined the term "handset,"usage of the term in other contexts disfavors an expansive interpretation. For example, the Commission separately enumerates the terms "mobile handset," "car phone" and "other. . . voice unit" on the instructions to its Form 477 with regard to data requested from providers of mobile telephony services. This usage clearly indicates that the Commission does not consider the term "handset"to encompass all forms of mobile wireless devices. 10/

III. Tele Aid Provides Superior Safety Compared to Direct Dialing of 911

In its comments, Intrado calls for the application of the Phase II location capability requirements to *all* telematics services, making the assertion that call center-based telematics provides an inferior emergency service, compared to direct dialing of 911. 11/ Nothing could be further from reality. First of all, Tele Aid and other automated telematics services provide a great advantage over

---

13, ¶¶ 50-54 (stating the "normal market forces my generate almost complete penetration by ALI-capable handsets within three years or less").

10/ ***See*** Instructions for the Local Competition and Broadband Reporting Form (FCC Form 477) (exp. date: Nov. 30, 2003) at 9.

11/ Comments of Intrado Inc. at 6.

manual 911 dialing when help is needed most critically – *i.e.*, when the vehicle occupants arc incapacitated. Mandating compliance with specific Phase II requirements would do little good if an accident victim is unable to "push the button'' for 911 dialing.

Intrado complains specifically that "the lines" used by the call center to contact the appropriate PSAP do not transmit vehicle location information and do not provide a call-back number for the vehicle. 12/ This ignores the fact that the call center does, in fact, provide the vehicle location to the PSAP, and that the call center maintains voice communication with the vehicle, enabling it to relay pertinent information to the PSAP. The call center database, at the subscriber's option, also can maintain important medical history data relating *to* the vehicle owner and/or usual passengers that can be communicated to the emergency responders in case the victims are unconscious. Moreover, MBUSA is in the process of upgrading Tele Aid so that crash-related data from the vehicle crash sensors can also be communicated to emergency responders, giving them a better idea of the nature and severity of the accident and the type of injuries to be expected.

Most importantly, however, Intrado ignores the fact that emergency call centers are making available vehicle location information to PSAPs on a ubiquitous, nationwide basis, regardless of the current capability of the PSAP to

---

12/ Comments of Intrado, Inc. at 6-7.

receive FCC-compliant Phase I and Phase II data. This provides telematics subscribers with a significant advantage over direct 911 dialing, given the number of PSAPs that are not yet upgraded to receive this data electronically.

Finally, as the Commission has recognized, telematics call centers provide another important public safety benefit by acting "as a screen for non-cmergcncy calls, thus alleviating the burden that PSAPs face in administratively handling their increasing wireless emergency call volume." 13/ TeleAid call centers, for example, screen out thousands of non-emergency calls, preventing the needless dispatch of personnel and burdening of local PSAPs. An emergency call to a PSAP from Tele Aid represents a true emergency in 99% of cases.

For all the reasons outlined above, the Commission should reject Intrado's suggestion that call center-based telematics services be subject to the Phase II location capability requirements.

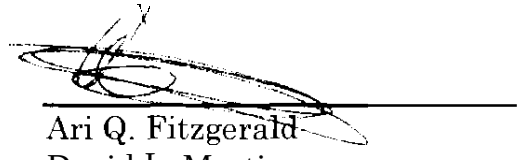
13/ Further Notice at ¶ 66.

IV. Conclusion

Whatever the Commission may conclude regarding the regulatory status of embedded telematics devices that can be used for dialing 911 and other numbers directly, there is clearly no support in the record for treating as "handsets" those telematics units that are limited to communicating with call centers. To do *so* would jeopardize the continued deployment and availability of these devices, which provide significant emergency response advantages over the direct dialing of 911. For the same reason, the Commission should not impose E-911 Phase II requirements on such dedicated telcmatics devices.

Respectfully submitted,

MERCEDES-BENZ USA, LLC



Ari Q. Fitzgerald
David L. Martin
Counsel to MERCEDES-BENZ USA, LLC

HOGAN & HARTSON L.L.P.
555 13th Street, N.W.
Washington, DC 20004
(202) 637-5600

Dated: February 7, 2003